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COMMISSION ON HUMAN RIGHTS
Fifty-second session
Agenda item 9 (d)

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

Written statement submitted by Médecins sans Frontières, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[10 April 1996]

INTERNALLY DISPLACED PERSONS

1. The number of internally displaced persons around the world continues to increase dramatically. Many have fled areas of conflict because their most fundamental human rights have been put at risk. Internally displaced persons tend to be among the most vulnerable groups within their societies, regularly deprived of vital services such as medical assistance.

2. Displaced persons often fail to get adequate protection and assistance from their own Governments, sometimes because these Governments are unable to do so, but more often because they are unwilling to protect the rights and meet the basic needs of the displaced.

3. Médicins sans Frontières (MSF) offers medical humanitarian assistance to displaced persons all over the world. On a regular basis, MSF is being denied or given only limited access to the internally displaced. Governments argue in such cases that, by offering humanitarian assistance, MSF interferes in the internal affairs of the State. As a result, many innocent victims have died or suffered unnecessarily, whereas basic medical care could have alleviated their suffering or saved their lives.

4. In Burundi, since 1993 several waves of violence have caused internal displacement among the population. The first wave in October 1993 caused some 250,000 people, mainly Tutsis, to flee their communities. They settled in camps in the northern part of the country, where they gathered near army compounds. Periodically, displacement recurred in 1994 and 1995.

5. Both the displaced and the so-called "dispersed" persons have had to abandon their houses, have left most of their possessions behind and have their fields unattended, which makes them heavily reliant on external aid. However, because of insecurity, food production or convoys were interrupted. MSF/Action internationale contre la faim (AICF) surveys show that both groups have an alarming nutritional status. Similarly, limited access to health centres has caused a dramatic fall in the vaccination coverage of children under 5. In Cibitoke and Bubanza provinces, insecurity has created difficulties in providing the health centres with human and material resources. Attempts by humanitarian agencies to re-establish health centres and to provide food and water were met with army and militia resistance.

6. So far all major international humanitarian initiatives for the internally displaced persons have been taken by the non-governmental organization (NGO) community in Burundi. The United Nations humanitarian mechanisms that have been established to coordinate the efforts to protect and to assist those displaced have been hampered by political unwillingness and by weak representation and have therefore not proven to be effective.

7. Minimal government assistance has been given to the displaced persons. The national relief strategy, which was discussed during a recent government workshop, failed to include the needs of dispersed persons. However, humanitarian assistance should not depend on ethnicity or on the type of displacement. Therefore, the Government should re-examine the problem of internally displaced persons in Burundi and address the needs of both groups.

8. In the absence of the political will to create an institution mandated to provide protection and assistance to internally displaced, the Commission on Human Rights has an important role to play. Human rights violations are among the main reasons for people to flee their homes. Therefore, the Commission should denounce the human rights violations that cause displacement and take effective action in order to ensure that, once people are being displaced, their human rights are respected. Furthermore the Commission should support the important work of the Representative of the Secretary-General for internally displaced persons with all the necessary resources and political backing that are needed.

9. MSF welcomes the important compilation and analysis of legal norms of the Representative, currently before the Commission, and supports its conclusions.

The existing law fails to give adequate protection to displaced persons. In particular, MSF supports the Special Representative's conclusion that a legal instrument is needed that explicitly guarantees that impartial humanitarian organizations have access to internally displaced persons.

10. MSF urges the United Nations organizations entrusted with the coordination of the assistance needs of internally displaced to play their coordinating role more forcefully and effectively.

11. MSF urges Governments to invite the Representative to visit their countries. He should be allowed unimpeded access to the displaced populations to assess their situation, in order to initiate a dialogue with a view to providing better insight into the situation of the displaced. This should contribute to an improved situation for the displaced persons, where their human rights would be better protected and their humanitarian needs would be met.

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COMMISSION ON HUMAN RIGHTS
Fifty-second session
Agenda item 23

INDIGENOUS ISSUES

Written statement submitted by Four Directions Council, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[3 April 1996]

1. We would like to offer a brief history of the concerns and problems of our indigenous peoples in Treaty Four Territory, and the Saskatchewan region, and their implicit relationship to agenda item 23, "Indigenous issues", and, provide a series of recommendations for consideration and official record.

2. For centuries prior to contact with the European, we practised our own forms of government. We treated with other indigenous peoples, to protect and pursue economic, social, cultural and political development.

3. We had our own justice systems to implement our laws. We had the ability to enter into international treaties with the British Crown on a nation-to-nation basis. Essentially, and in practice we conducted ourselves as Nations.

4. After contact, we have seen the development and implementation of destructive policies by the colonial governments: to strip us of our lands, our cultures, our spiritual beliefs, our political systems, our way of life and more importantly, our ability to govern ourselves and determine our own destinies.

5. Strangely enough, most Canadians are better acquainted with the history of indigenous peoples in the eighteenth and nineteenth centuries than they are with the unsavoury realities of recent years. Canadians know that the early settlers and governments took lands from the indigenous peoples, by use of devious and questionable methods, but it is relatively easy to feel detached and separated from those events of long ago. It is more difficult to deny responsibility for the misguided policies of the twentieth century and its effects on the indigenous peoples in Canada.

6. There is an illusion that progressive thinking and improved attitudes have brought fair treatment to Canada's indigenous peoples, and this illusion has been communicated to the world as a basis to forge alliances and partnerships.

7. All indigenous communities are still enduring the malignant effects of those misguided governmental policies. The social and economic conditions prevalent on modern-day reserves in Canada are a legacy of the decisions and policies of the most powerful institutions of the nineteenth and twentieth centuries. Many of those policies and attitudes that devised and shaped them are in existence today.

8. The inclusion in the agenda of the Commission of indigenous issues, as a separate item is viewed with great optimism and welcomed. It is an undeniable fact that more work and understanding must be achieved, as a respected colleague stated in a Working Group forum: "the world will be out of balance, if the red man is not allowed to take his place, alongside the white, black and yellow men of the world".

The Four Directions Council, would like to put forth several recommendations:

(a) That indigenous issues:

(i) Remain as a separate and distinguishable item now and in future United Nations functions, events and developments;

(ii) Not be relegated, confined or contained under "Minority problems".

(b) That draft declarations:

(i) Remain unchanged and unaltered in their present form;

(ii) Represent to all a minimum standard;

(iii) Be adopted in their present unaltered form by the Commission on Human Rights;

(iv) Be recommended by the Commission to the Economic and Social Council for approval in unaltered form.

(c) That a permanent forum:

(i) Be viewed by all parties as a necessary and progressive step in the evolution of the United Nations system;

(ii) Be established within the time-frames of the Decade of the World Indigenous People;

(iii) During the formation and establishment processes, be allowed to proceed unhindered and free of biases and discriminatory approaches;

(iv) Be established at the highest level in the United Nations system;

(v) Be granted authority to sanction effective, acceptable resolutions for indigenous peoples.

(d) That the treaty study be completed by the Special Rapporteur according to the time requirements.

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COMMISSION ON HUMAN RIGHTS
Fifty-second session
Agenda item 23

INDIGENOUS ISSUES

Written statement submitted by Survival International, a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[9 April 1996]

1. Survival International is very pleased with the fact that the item "Indigenous issues" has been introduced separately on the agenda. The United Nations Commission on Human Rights shows with this to be determined to consider this subject honestly and efficiently, as we all know that the human rights situation of many indigenous peoples in the world is far from good.

2. We do not have to mention the many examples of political instability and armed conflicts, arisen because of the unjust treatment, the threat to the natural environment, displacement of and unequal opportunities and services for the indigenous peoples throughout the world. According to information from the indigenous people's organization in Suriname, which is a small republic in the Amazon Basin in South America, parliament is presently in the process of approving a contract with a Malaysian logging company for an area of over a million hectares in the interior of Suriname. This is almost a quarter of the Surinamese rainforest. An Indonesian logging company is distributing chain saws to cut wood, which it then exports. Because of the

upcoming elections in Suriname, logging concessions of more than 100,000 hectares are given to political friends. The resulting clearing of the forests will deprive indigenous peoples of their essential needs to maintain their traditional life. A Canadian gold-mining company, the same one involved in the Omai-cyanide spill in Guyana, is exploring for gold in indigenous and Maroon areas. Maroons are the tribal descendants of former African slaves. An American and a South African company are exploiting bauxite in the interior of Suriname. The indigenous and Maroon peoples have in none of these cases participated in decisions, although they are forcibly displaced without any form of compensation.

3. Add this to the facts that 75 per cent of the indigenous and tribal peoples in the interior of Suriname have no access to education or basic health care, and other social services are not provided for in the interior, which is especially unacceptable in this time of economic deterioration in Suriname. The Suriname Government does not even want to recognize the existence of indigenous and tribal peoples as such in the country, while the indigenous peoples and Maroons make up about 15 per cent of the population.

4. We can go on quoting violations of the rights of indigenous peoples throughout the world. Can we, then, not speak of violations of human rights? Is it surprising that we, the indigenous and tribal peoples of the world, want to establish a United Nations declaration on indigenous peoples, to have an internationally recognized form of protection? Is it strange that we want a permanent forum within the United Nations, to have a way of directly influencing Governments? Are we not right to demand legal rights on our traditional lands, and want the right of self-determination, to protect us from these forces? Many Governments are now taking the role of the former colonizators, in chasing the tribal peoples out of their traditional areas and claiming natural resources for the benefit of a few. And we all know the results: marginalization of our peoples, social injustice and political instability with its resulting adverse effects on national development.

5. The United Nations, therefore, stands before the same challenge as 50 years ago: to keep the peace and harmony among the peoples and nations of the world. The indigenous peoples of the world are willing to cooperate on the basis of mutual respect and understanding. We are organizing ourselves, for example in the International Alliance of Indigenous-Tribal Peoples of the Tropical Forests of Asia, Africa and the Americas. On the one hand indigenous peoples will not sit still and watch their own destruction passively; they will now speak out to the world and make public the violations of their rights. On the other hand, the indigenous peoples do not want to fight if it is not necessary; they are so eager to work together with Governments and organizations towards a truly just society, where indigenous and tribal peoples can live in harmony with others, adding to the cultural diversity of the world, and in which everyone has the joy of equal rights.

6. We once more want to urge the Commission not to delay unnecessarily the discussions on the draft United Nations Declaration on the Rights of Indigenous Peoples. We urge the Commission to put as much effort as possible

in establishing very soon a permanent forum in the United Nations for indigenous peoples. We urge the Commission to implement very soon the mechanisms of funding activities from the Fund for the International Decade of the World's Indigenous Peoples. We call upon the delegates, from whom we have heard many positive sounds during the debate on item 23, not to limit their contribution to this item of the agenda to statements and intentions, but also to submit the relevant resolutions to establish the above-mentioned bodies and make the appropriate decisions.

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COMMISSION ON HUMAN RIGHTS
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Agenda item 9

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Written statement submitted by Liberation, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[3 April 1996]

1. The Japanese Government conceals materials concerning war crimes and protects war criminals.

2. After the Second World War, Japan's war crimes were tried by the International Military Tribunal for the Far East as well as by B- and C-class war crimes courts promoted by seven Allied countries. Thirty-four were charged with the crime of "forcing prostitution", of whom 30 were found to have been involved in the "comfort women" issue.

3. Liberation recently obtained a record which shows that American women also served as "comfort women". As many know, the Japanese military occupied the Guam Islands in December 1941. During that period, a Japanese civilian named Shinohara forced two local American women to serve Japanese soldiers as "comfort women" against their will. This offender was sentenced to 15 years of hard labour on charges of "forcing prostitution" by the local court.

4. This is just the beginning of the story. The original trial record has been preserved in the United States National Archives. A copy of this record has also been kept on microfilm in the National Diet Library in Japan. However, the problem is that, although the Government has its own materials concerning its war crimes, it refuses public access to them. For example, the Government directly interviewed officer Shinohara and wrote a research report on his case after the war. However, the material is not available to the public. The Government states that they refuse public access in order to protect the privacy of war criminals.

5. In July last year, the Special Rapporteur on violence against women, asked the Japanese Government to fully disclose materials and documents in its possession when she visited the country during her official mission. However, the Japanese Government turned down her request, saying, "there are materials but no records". This explanation does not make any sense and is not a rational excuse.

6. The United Kingdom, Germany and France have been continuing to send wartime criminals to trial. Only the Japanese guilty parties remain unpunished and untried. Moreover, Japan has been giving pensions to war criminals and their families even today. A large amount of State compensation has been annually allotted to them in accordance with the length of their military service plus the length of their imprisonment as war criminals. This kind of action is a violation of the San Francisco Peace Treaty of 1951 as Japan accepted the judgement of the war crimes trials by the Allied forces in article 11 of the Treaty. While granting a State pension to war criminals, the Government refuses its obligation to compensate victims of sexual slavery and tries to settle the matter through a private fund.

Points at issue and cause

7. The Government's negative response to the issue originates in its full denial of its legal responsibility for its past colonial rule of Korea and war crimes. This attitude can be clearly observed in remarks and acts of Cabinet ministers. During a parliamentary session in October 1995, the then Prime Minister Murayama said that the Korea-Japan Annexation Treaty of 1910, which allowed Japan to enslave Korea for 36 years, was "legally concluded".

8. The New York Times commented that Murayama's statement was "equivalent to the German Government's declaring that its invasion of France during World War II had been legal and amicable, because agreements were signed between Germany and the puppet government in Vichy". Meanwhile, the ruling Liberal Democratic Party's study group last summer passed to each LDP lawmaker a booklet which claims that militarist Japan saved Asia and that the annexation of Korea was carried out to promote the stability and peace of the East. Involved in the study group were leading LDP politicians including present Prime Minister Hashimoto.

9. The recruitment of "comfort women" started in the early 1930s, targeting Korean women under Japan's colonial yoke. With the expansion of Japan's aggressive war, the scope of sexual slavery was enlarged to other areas involving Asian, Dutch, American and Austrian women. The root cause lies precisely in Japan's colonial rule of Korea. However, Japan regards its old

treaties with Korea as "valid" and its recruitment of "comfort women" as "legal" (according to Japanese statements during the diplomatic normalization talks between the Democratic People's Republic of Korea and Japan).

10. Tokyo's claims have never been accepted under international law. For example, the United Nations International Law Commission in 1963 cited the Five-Point Treaty of 1905 between Japan and Korea and a treaty between Germany and Czechoslovakia in 1939 as typical examples of an invalid act by a State as they were concluded through acts of armed coercion. The 1905 treaty paved the way for the establishment of Japan's annexation of Korea in 1910. Germany declared in its diplomatic normalization treaty with Czechoslovakia in 1973 that the 1939 treaty was null and void from the beginning. This expresses a strong determination to repent and settle its past misconduct. On the other hand, Japan never retreated from its position that old treaties and recruitment of "comfort women" and forced labourers were valid and legal. If we follow the Japanese absurd theory, then past laws enacted by Nazi Germany could be legal and the massacres in Auschwitz valid. Japan is the only country in the world which refuses to repent its past colonial rule and aggression.

11. Liberation suggests that (a) the Commission should adopt a resolution approving the six-point recommendation to Japan made by the Special Rapporteur on violence against women in her report, and (b) in view of the Draft Articles on State Responsibility adopted by the United Nations International Law Commission in 1980, the United Nations should take strong measures against Japan which still maintains the stand that its past aggression, colonial rule and enslavement of other nations are legal.